

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Timothy Adrian Gallagher, M.D.

Case No. 800-2017-037821

**Physician's and Surgeon's
Certificate No. A 82097**

Respondent

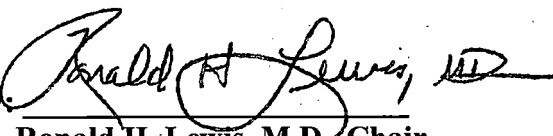
DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 15, 2019.

IT IS SO ORDERED January 17, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 

**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KEITH C. SHAW
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4 State Bar No. 227029
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8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **TIMOTHY ADRIAN GALLAGHER, M.D.**

16 624 S. J Street
17 Lakeview, OR 97630

18 **Physician's and Surgeon's Certificate No.**
19 **A 82097**

20 Respondent.

Case No. 800-2017-037821

OAH No. 2018080447

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPRIMAND**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
26 of California (Board). She brought this action solely in her official capacity and is represented in
27 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,
28 Deputy Attorney General.

2. Respondent Timothy Adrian Gallagher, M.D., is represented in this proceeding by attorney Vanessa L. Efremsky, Esq., whose address is 201 North Civic Drive, Suite 239, Walnut Creek, CA 94596.

3. On or about February 28, 2003, the Board issued Physician's and Surgeon's Certificate No. A 82097 to Timothy Adrian Gallagher, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-037821, and will expire on August 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-037821 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 5, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-037821 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-037821. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2017-037821, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

9 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
10 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
11 Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Medical Board of California.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
15 Board of California may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be
21 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
22 further action by having considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order for Public Reprimand, including PDF
25 and facsimile signatures thereto, shall have the same force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 82097 issued to Respondent Timothy Adrian Gallagher, M.D., shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand is issued in connection with a Corrective Action Agreement that Respondent entered into with the Oregon Medical Board, which resolved allegations that Respondent prescribed opioids in unsafe dosages, as set forth in Accusation No. 800-2017-037821.

B. PRESCRIBING PRACTICES COURSE

Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine ("Program"), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education ("CME") requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.


If Respondent fails to enroll in or successfully complete the prescribing practices course

1 within the designated time period, Respondent shall receive a notification from the Board or its
2 designee to cease the practice of medicine within three (3) calendar days after being so notified.
3 Respondent shall not resume the practice of medicine until he has completed the prescribing
4 practices course. Failure to enroll in or successfully complete the prescribing practices course
5 within the designated time period shall constitute unprofessional conduct and grounds for further
6 disciplinary action.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
9 Reprimand and have fully discussed it with my attorney, Vanessa L. Efremsky, Esq. I understand
10 the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter
11 into this Stipulated Settlement and Disciplinary Order for Public Reprimand voluntarily,
12 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical
13 Board of California.

14
15 DATED: 12/5/18


16 TIMOTHY ADRIAN GALLAGHER, M.D.
Respondent

17 I have read and fully discussed with Respondent Timothy Adrian Gallagher, M.D., the
18 terms and conditions and other matters contained in the above Stipulated Settlement and
19 Disciplinary Order for Public Reprimand. I approve its form and content.

20
21 DATED: 12/5/18


22 VANESSA L. EFREMSKY, ESQ.
Attorney for Respondent
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 12/5/18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-037821

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
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Attorneys for Complainant
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 5 2018
BY: [Signature] ANALYST

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2017-037821

Timothy Adrian Gallagher, M.D.

A C C U S A T I O N .

624 S. J Street
Lakeview, OR 97630

**Physician's and Surgeon's Certificate
No. A 82097,**

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On or about February 28, 2003, the Medical Board issued Physician's and Surgeon's Certificate Number A 82097 to Timothy Adrian Gallagher, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

C. Section 141 of the Code provides:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On October 5, 2017, the Oregon Medical Board (Oregon Board) issued a Corrective Action Agreement (Agreement) regarding Respondent's license to practice medicine in the State of Oregon. The Agreement contains information that the Oregon Board initiated an investigation following a report that Respondent was prescribing opioid medication in unsafe dosages. A true and correct copy of the Agreement issued by the Oregon Board is attached as Exhibit A.

5. Pursuant to the Agreement, Respondent's license to practice medicine in the State of Oregon is subject to the following conditions:

- 1 a. Respondent agrees to participate in an educational program regarding the
2 management of chronic pain that is pre-approved by the Oregon Board's Medical
3 Director.
4 b. Respondent's practice is subject to chart audits by the Oregon Board without
5 notice;
6 c. Respondent shall obey all federal and Oregon State laws regarding the practice of
7 medicine;
8 d. Respondent agrees that any violation of the terms of the Agreement constitutes
9 grounds for disciplinary action.


10 6. Respondent's conduct and the action of the Oregon Board, as set forth in paragraphs
11 4 and 5 above, constitute cause for discipline pursuant to sections 2305 and/or 141 of the Code.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board issue a decision:

- 15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 82097,
16 issued to Timothy Adrian Gallagher, M.D.;
17 2. Revoking, suspending or denying approval of Timothy Adrian Gallagher, M.D.'s
18 authority to supervise physician assistants and advanced practice nurses;
19 3. Ordering Timothy Adrian Gallagher, M.D., if placed on probation, to pay the Board
20 the costs of probation monitoring; and
21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: July 5, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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EXHIBIT A

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of

TIMOTHY ADRIAN GALLAGHER, MD
LICENSE NO. MD21152

CORRECTIVE ACTION AGREEMENT

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. Timothy Adrian Gallagher, MD (Licensee) is a licensed physician in the state of Oregon and holds an active license.

2.

Licensee is a board certified family practice physician practicing in Lakeview, Oregon. The Board opened an investigation after receiving a report that Licensee was prescribing opioid medications in doses that could be unsafe.

3.

Licensee and the Board now desire to settle this matter by entry of this Agreement. Licensee understands that he has the right to a contested case hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes. Licensee fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing of and entry of this Agreement in the Board's records. The Board agrees to close the current investigation and does not make a finding in regard to any violation of the Medical Practice Act. This Agreement is a public document; however, it is not a disciplinary action. This document is reportable to the National Data Bank and the Federation of State Medical Boards.

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4.

In order to address the concerns of the Board and for purposes of resolving this investigation, Licensee and the Board agree that the Board will close this investigation contingent upon Licensee agreeing to the following conditions:

4.1 Licensee agrees to participate in an educational program on the management of chronic pain which is pre-approved by the Board's Medical Director. Licensee must allow communications between the educational program and the Board.

4.2 Licensee's practice is subject to no-notice chart audits by the Board's designee(s).

4.3 Licensee must obey all federal and Oregon State laws and regulations pertaining to the practice of medicine.

4.4 Licensee agrees that any violation of the terms of this Agreement constitutes grounds to take disciplinary action under ORS 677.190(17).

IT IS SO STIPULATED THIS 2nd day of October, 2017.


TIMOTHY ADRIAN GALLAGHER, MD

IT IS SO ORDERED THIS 5th day of October, 2017.

OREGON MEDICAL BOARD


MICHAEL J. MASTRANGELO, JR., MD
BOARD CHAIR